



# STATE OF INDIANA

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October 29, 2012

Gary A. Robinson  
595 Sugar Street  
Marengo, Indiana 47140

*Re: Formal Complaint 12-FC-313; Alleged Violation of the Open Door Law by  
the Leavenworth Town Council*

Dear Mr. Robinson:

This advisory opinion is in response to your formal complaint alleging the Leavenworth Town Council ("Council") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* Council President R. Whitney Timberlake responded in writing to your formal complaint. His response is enclosed for your reference.

## BACKGROUND

In your formal complaint, you allege that the Council failed to provide proper notice for its October 4, 2012 special meeting. Specifically, notice was not posted forty-eight hours in advance.

In response to your formal complaint, Council President Timberlake advised that the October 4, 2012 meeting was not properly posted. Council President Timberlake further advised at no time did the Council's attorney advise him that proper notice had been posted. Council President Timberlake provided that he fully intends to comply with the notice requirements of the ODL for all future Council meetings.

## ANALYSIS

It is the intent of the ODL that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. *See* I.C. § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. *See* I.C. § 5-14-1.5-3(a).

The ODL requires that public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. *See* I.C. § 5-14-1.5-5(a). The notice must be posted at the principal office of the agency, or if not such office exists, at the place where the meeting is held. *See* IC § 5-14-1.5-5(b)(1). While the governing body is required to provide notice to news media who have requested notices nothing, requires the governing body to publish the notice in a newspaper. *See* I.C. § 5-14-1.5-5(b)(2). As Council President Timberlake has admitted that the notice for the October 4, 2012 meeting was not posted forty-eight hours in advance, it is my opinion that the Council acted contrary to the ODL. As Council President Timberlake has now provided that he fully understands the requirements of posting notice and will take all such precautions for future Council meetings, I trust that this is in satisfaction of your formal complaint.

#### CONCLUSION

It is my opinion that the Council violated the ODL by failing to post notice forty-eight hours in advance of the October 4, 2012 special meeting.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph B. Hoage  
Public Access Counselor

cc: Mr. R. Whitney Timberlake